

BEFORE THE
OFFICE OF ADMINISTRATIVE HEARINGS
STATE OF CALIFORNIA

In the Matter of:

LOOMIS ELEMENTARY SCHOOL
DISTRICT,

v.

PARENT ON BEHALF OF STUDENT.

OAH CASE NO. 2012110454

ORDER GRANTING IN PART
REQUEST FOR CONTINUANCE AND
SETTING PREHEARING
CONFERENCE AND DUE PROCESS
HEARING

On November 28, 2012, the parties submitted a joint request for continuance of the dates in this matter. The parties request mediation be set for Monday, December 10, 2012, and a due process hearing be set in February 2013. The Office of Administrative Hearings (OAH) does not conduct mediations on Mondays, unless grounds for an exception exist.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted in part. All dates are vacated. The parties assert that they are not available, due to "scheduling conflicts," for mediation on any day other than Monday, December 10, 2012. They provide no other information as to their unavailability. In light of the fact that the parties have requested a hearing date of February 12, 2013, nearly 75 days

from the date of this order. The parties have failed to provide information sufficient to establish that they are unable to identify a Tuesday, Wednesday or Thursday within this 75 day period on which to hold mediation. Accordingly, the request to hold mediation Monday, December 10, 2012, is denied. The parties may submit a different agreed upon mediation date or file a request for reconsideration, with sufficient information to support an exception to OAH's scheduling procedures.

The parties request hearing dates of February 12, 13 and 18, 2013, but fail to provide any information as to why a break is warranted between February 13 and 18, 2013. Accordingly, the parties request is granted as to February 12 and 13, 2013, only. At the prehearing conference the parties may request that February 18, 2013, be added as a hearing date. This matter will be set as follows:

Prehearing Conference:	January 30, 2013, at 10:00 AM
Due Process Hearing:	February 12 – 13, 2013, at 9:30 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: November 28, 2012

/s/

BOB N. VARMA
Presiding Administrative Law Judge
Office of Administrative Hearings